

REMARKS

I. Prosecution History

Claims 1 – 35 again stand rejected by the Examiner under 35 U.S.C. §102(e) and §103(a). The reference relied upon by Examiner to reject the claims under §102(e) is now US 6,624,846 issued to *Lassiter*. The references now relied upon to reject the claims under §103(a) are US 6,522,352 issued to *Strandwitz et al* in combination with *Lassiter*, and US Patent 5,156,031 issues to *Lee* in combination with *Lassiter*. All three references, *Lassiter*, *Strandwitz*, and *Lee*, were already used in the first office action.

In response to the Office action, Applicant has cancelled claims 9, 18, 20, and 29, amended claims 1, 11-13, 16-17, 19, 21, 25, 27-28, and 30-35, and has added Claims 1, 16, 17-19, and 33-35, and added new claims 35-40. Claims 1-35 remain pending and are again presented for further examination.

II. Invention Summary

Applicants' specification teaches that data transmitted from the venue-based data source (e.g., a plurality of video cameras) can include simultaneous receipt by a hand held device of multiple video perspectives at an entertainment venue. The hand held device can also simultaneously display more than one video perspective at a time on a display associated with the hand held device.

Applicants' invention is specifically described for use within entertainment venues. Applicants begin defining "venue" at page 1, line 31 of Applicants' specification as follows: "*modern stadiums and live entertainment facilities or arenas (herein also collectively referred to as "venues"), which feature sporting events and concerts.*" Examples of venues provided by Applicants include facilities such as football, baseball, soccer stadiums, boxing arenas, wrestling arenas, golf courses, concert arenas and the like, and other similar stadiums or sports and

entertainment complexes.

II. Synopsis of primary art cited against Applicants' claims.

Lassiter (U.S. Patent No. 6,624,846) discloses a visual interface enabling a video camera user control of and enhanced interaction with a video camera. Better than typical "view finders" found in current video camera, the *Lassiter* invention enable users to manipulate a spatial region (e.g., visual scene) through command over control space and target space. *Lassiter* illustrates use of his invention in a park-like scene. *Lassiter* is not used in an entertainment facility and seems more concerned with the control of a spatial region of a panoramic scene captured by a video camera by providing a user an interface that illustrates a control space and target space, the target space being a portion of the control space being displayed.

Lassiter's invention could be very useful to a system like Applicants' where camera operators or content editors would like more control over a scene that is being filmed at an entertainment activity, but this application is not taught or even suggested. Even if it were described as useful for entertainment venues, it would merely be a useful component in a system that delivers the novelty of Applicants' invention to entertainment venue attendees using a hand held devices to simultaneously receive and view more than one video image captured by video cameras at an entertainment venue.

III. Requirements for *Prima Facie* Anticipation

A general definition of *prima facie* unpatentability is provided at 37 C.F.R. §1.56(b)(2)(ii):

A *prima facie* case of unpatentability is established when the information *compels a conclusion* that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

"Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration." *W.L. Gore & Associates v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983) (citing *Soundsciber Corp. v. United States*, 360 F.2d 954, 960, 148 USPQ 298, 301 (Ct. Cl.), *adopted*, 149 USPQ 640 (Ct. Cl. 1966)), *cert. denied*, 469 U.S. 851 (1984). Thus, to anticipate the applicants' claims, *Lassiter* must disclose each element recited therein. "There must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention." *Scripps Clinic & Research Foundation v. Genentech, Inc.*, 927 F.2d 1565, 18 USPQ 2d 1001, 1010 (Fed. Cir. 1991).

To overcome the anticipation rejection, the applicants need only demonstrate that not all elements of a *prima facie* case of anticipation have been met, *i. e.*, show that *Lassiter* fails to disclose every element in each of the applicants' claims. "If the examination at the initial state does not produce a *prima facie* case of unpatentability, then without more the applicant is entitled to grant of the patent." *In re Oetiker*, 977 F.2d 1443, 24 USPQ 2d 1443, 1444 (Fed. Cir. 1992).

IV. Application of Anticipation Requirements to the rejected claims

The Examiner rejected claims 1-5, 8-14, 16-23, 25-30, and 33-35 under 35 U.S.C. §102(e) as being anticipated by *Lassiter* (U.S. Patent No. 6,624,846). Applicants have amended independent claims 1, 16, 17, 19, and 33-35 to provide clarity and specificity to what constitutes Applicants' invention. The amendments should provide more clarity to what Applicants claim in light of the rejection.

The Examiner argues that *Lassiter* discloses a method for receiving venue-based data at a hand held device (citing column 7, line 39-column 8, line 19). *Lassiter*, however, does not specifically describe a system or hand held device that simultaneously receives more than one visual perspective at an entertainment venue-based activity.

Applicants' specification and claims together teach that "entertainment venues" for purposes of Applicants' invention are facilities, such as sports stadiums and other entertainment halls or arenas, wherein live entertainment activities, such as sporting events and concerts, take place. *Lassiter* does not teach, suggest or disclose all the elements of Applicants' claimed invention, nor does *Lassiter* teach that his invention is for use in entertainment venues, which is obviously an important field of use and feature of Applicants' claimed invention. *Lassiter* instead describes and illustrates systems and methods for controlling a panoramic scene by defining smaller segments of the scene, which is basically an open area such as a park scene or forest wherein a panoramic image. The panoramic scene can be manipulated and controlled as smaller segments. *Lassiter's* invention is useful but limited to single camera operational enhancements. *Lassiter* is not capable of using the technology described in his patent to provide applicants' entertainment venue services.

Applicants have amended their independent claims to provide more clarity as to the scope of their invention. The amendments appear as follows:

Claim 1. A method for receiving venue-based data at a hand held device, said method comprising the steps of:

wirelessly receiving data at a hand held device said data including video streaming simultaneously from more than one visual perspective within an entertainment venue and transmitted from at least one venue-based data source at the entertainment venue;

processing said data for display on a display screen associated with said hand held device; and

displaying said data on said display screen.

Claim 16. A method for wirelessly receiving venue-based data at a hand held device, said method comprising the steps of:

wirelessly receiving at a hand held device data including at more than one video perspective streaming simultaneously from more than one video camera located within an entertainment venue, said data;

processing said data for display on a display screen associated with said hand held device; and

displaying the data on said display screen.

Claim 17. A method for receiving at least one perspective of a venue-based activity at a hand held device, said method comprising the steps of:

Simultaneously receiving at a hand held device more than one video perspective of a venue-based activity transmitted from at least one venue-based data source at an entertainment venue;

processing said more than one perspective for simultaneous display on a touch-sensitive display screen associated with said hand held device;

displaying said more than one perspective on said display screen, thereby enabling a user of said hand held device to simultaneously view more than one venue-based perspectives through said hand held device; and

displaying a particular perspective on said display screen in response to a user's selection of said particular perspective from among said plurality of perspectives by touching the touch-sensitive display screen where it overlays the particular perspective.

Claim 19. A hand held device adapted for simultaneously receiving more than one video perspective captured by more than one video camera located within an entertainment venue, comprising:

at least one receiver adapted for simultaneously receiving the more than one video perspective;

a processor adapted for processing said more than one video perspective for simultaneous display of at least two video perspectives on a display screen associated with said hand held device; and

a display screen adapted for displaying the at least two video perspectives.

Claim 33. A system for wirelessly receiving venue-based data including at more than one video stream from more than one visual perspective within an entertainment venue at a hand held device, said system comprising:

a receiver adapted for wirelessly receiving data at a wireless hand held device including more than one video stream from more than one visual perspective transmitted from more than one venue-based data source at the entertainment venue;

a processor adapted to process said venue-based data for display at said hand held device; and

a display screen adapted for simultaneously displaying the venue-based data processed by the processor, wherein said display screen is associated with said hand held device, thereby enabling a user of said hand held device to view the more than one video stream.

Claim 34. A system for receiving more than one video perspective of a venue-based activity at a hand held device, said system comprising:
a hand held device including:

at least one receiver for simultaneously receiving more than one video perspective of a venue-based activity simultaneously transmitted from more than one venue-based video data source; and

a processor adapted to process said more than one video perspective for display on a display screen associated with said hand held device.

Claim 35. A system for displaying a particular video perspective of a venue-based activity at a hand held device, said method comprising:

at least one receiver simultaneously receiving at a hand held device a plurality of video perspectives of a venue-based activity simultaneously transmitted from more than one venue-based data source located at an entertainment venue;

a processor processing said plurality of perspectives for display on a display screen associated with said hand held device; and

a display screen displaying a particular video perspective on said display screen in response to a user selection of said particular video perspective from among said plurality of video perspectives.

Applicants believe that their independent claims overcome the rejection, and therefore the rejection is respectfully traversed. Applicants respectfully request reexamination of the claims rejection as being anticipated by *Lassiter* in light of the amended claims and their remarks.

V. Requirements for *Prima Facie* Obviousness

The obligation of the examiner to go forward and produce reasoning and evidence in support of obviousness is clearly defined at M.P.E.P. §2142:

The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.

M.P.E.P. §2143 sets out the three basic criteria that a patent examiner must satisfy to establish a *prima facie* case of obviousness:

1. some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings;
2. a reasonable expectation of success; and
3. the teaching or suggestion of all the claim limitations by the prior art reference (or references when combined).

It follows that in the absence of such a *prima facie* showing of obviousness by the examiner (assuming there are no objections or other grounds for rejection), an applicant is entitled to grant of a patent. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443 (Fed. Cir. 1992).

Thus, in order to support an obviousness rejection, the Examiner is obliged to produce evidence compelling a conclusion that each of the three aforementioned basic criteria has been met.

VI. Application of Nonobviousness Requirements to the rejected claims

The Examiner rejected claims 6, 7 and 24 under 35 U.S.C. §103(a) as being unpatentable over *Lassiter* in view of Strandwitz (U.S. Patent No. 6,522,352), "*Strandwitz*."

The applicants respectfully assert that the rejection of Claims 6, 7 and 24 herein fails under the third prong of the obviousness test because, for the reasons discussed *infra*, *Lassiter* neither teaches nor suggests all of the limitations set out in the amended independent claims, 1 and 19, upon which claims 6-7 and 24 respectively depend. In particular, *Lassiter* does not teach or suggest simultaneous streaming of more than one video perspective of an entertainment venue to a hand held device also located within the entertainment venue. *Lassiter* clearly teaches away from such a device by illustrating a closed system designed for control over the detail of a single panoramic perspective captured by a single video camera in an open space (not an entertainment venue).

Strandwitz is cited for its teaching of wireless video camera. Applicants agree that wireless cameras would be an excellent component to a multiple perspective entertainment system described in their patent application and claimed in their independent claims. *Strandwitz* camera has much to offer a system like Applicants', but *Strandwitz* alone or in combination with *Lassiter* does not teach Applicants invention as claimed. The rejection fails to satisfy first prong because, in view of the objectives and teachings of the references, because there is no motivation or suggestion to combine them to simultaneously provide more than one video perspective to a hand held device located within an entertainment venue. In this regard, the teaching or suggestion to make the claimed combination and the

reasonable expectation of success must both be found in the prior art, not in the applicants' disclosure.

Combining Strandwitz with Lassiter does not accomplish the invention claimed by Applicants. *Lassiter* does not teach or suggest system or method simultaneously providing more than one video perspective to a hand held device located within an entertainment venue. Applicant does not find where a hint or suggestions in *Lassiter* or *Strandwitz* can be found by the skilled to combine either reference to arrive at an invention as claimed by Applicants.

Moreover, 35 U.S.C. §103(a) states that:

[a] patent may not be obtained . . . if the differences between the between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

It is thus improper for the Examiner to formulate the suggestion or motivation to combine prior art references based on current knowledge.

As stated by the Federal Circuit Court in the opinion of *In re Fritch*, 972 F.2d 1260, 23 USPQ 2d 1780, 1784 (Fed. Cir. 1992) (quoting *In re Fine*, 837 F.2d 1071, 1075, 5 USPQ 2d 1596, 1600 (Fed. Cir. 1988):

The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification. Wilson and Hendrix fail to suggest any motivation for, or desirability of, the changes espoused by the Examiner and endorsed by the Board.

Here the Examiner relied upon hindsight to arrive at the determination of obviousness. It is impermissible to use the claimed invention as an instruction manual or 'template' to piece together the teachings of the prior art so that the claimed invention is rendered obvious. This court has previously stated that '[o]ne cannot use hindsight

reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention.'

The foregoing comprises a caution against piecing together disparate and unrelated disclosures found in the prior art to meet a claimed structure, in the absence of any suggestion in the references implying the desirability of doing so. The applicants respectfully assert that, in view of the aforementioned guideline, combining *Lassiter* and *Strandwitz* is improper and, therefore, a *prima facie* case of obviousness against Claims 6, 7, and 24 cannot be established.

The Examiner rejected claims 15, 31-32 under 35 U.S.C. §103(a) as being unpatentable over *Lassiter* in view of Lee (U.S. Patent No. 6,535,493), "*Lee*."

The applicants respectfully assert that the rejection of Claims 15, and 31-32 herein fails under the third prong of the obviousness test because, for the reasons discussed *infra*, *Lassiter* neither teaches nor suggests all of the limitations set out in the amended independent claims, 1 and 19, upon which claims 15 and 31-32 respectively depend. In particular, *Lassiter* does not teach or suggest simultaneous streaming of more than one video perspective of an entertainment venue to a hand held device also located within the entertainment venue. *Lassiter* clearly teaches away from such a device by illustrating a closed system designed for control over the detail of a single panoramic perspective captured by a single video camera in an open space (not an entertainment venue). Applicants' agree that advertising media is just one of the important components of their systems and methods. *Lee* however, like the wireless camera in *Strandwitz*, and the enhanced image capturing in *Lassiter*, may only operate as useful component for an invention likes that now claimed by Applicants.

Lee, either alone or in combination with *Lassiter*, does not teach the invention claimed by applicant, as argued and illustrated *infra*. Therefore the rejection is respectfully traversed.

V. Conclusion

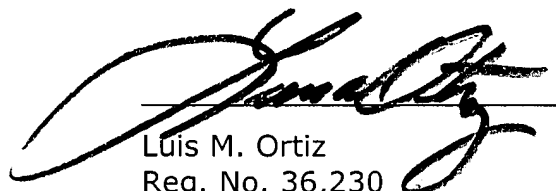
In view of the foregoing discussion, the Applicants have responded to each and every rejection of the Official Action. The Applicants have clarified the structural distinctions of the present invention with its present amendments. Applicant has also added five new claims, 36-40, which only serve to further clarify the field of use for their invention.

Applicants respectfully request the withdrawal of the rejections under 35 U.S.C. §102 and 35 U.S.C. §103 based on the preceding remarks. Reconsideration and allowance of Applicants' application is also respectfully solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned representative to conduct an interview in an effort to expedite prosecution in connection with the present application.

Respectfully submitted,

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